IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 3RD JANUARY 2007 / 13TH POUSHA, 1928

WP(C).No. 32631 of 2006(I)

PETITIONER:

AUSTIN BEENNAN, PROPRIETOR,
M/S.A.B.TRADE LINKS, AYYATH BUNGLOW,
LAKE DARSAN NAGAR, KOLLAM.

BY ADV. SRI.O.D.SIVADAS
SRI.S.SUNIL NARAYANAN

RESPONDENTS:
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1. THE MANAGER, UNION BANK OF INDIA,
KOLLAM BRANCH, KOLLAM DISTRICT.

2. THE REGIONAL MANAGER, UNION BANK OF
INDIA, REGIONAL OFFICE, UNION BANK BHAVAN,
P.B.NO.307, M.G. ROAD, STATUE,
THIRUVANANTHAPURAM.

3. THE RESERVE BANK OF INDIA,
REPRESENTED BY DEPUTY MANAGER, BAKERY JUNCTION,
THIRUVANANTHAPURAM.

BY ADV. SRI.A.S.P.KURUP, SC, UBI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.32631 of 2006

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Dated this the 3rd day of January, 2007.

JUDGMENT

Prayer in the W.P. is for direction to the first respondent-Bank to grant OTS benefit to the petitioner. The loan became overdue in March 2006. Standing Counsel for the Bank submitted that even though petitioner was not entitled to OTS benefit, the Bank still granted incentives and allowed the petitioner to clear the arrears which is stated to be over Rs.1.69 crores. According to counsel, Bank agreed to settle at Rs.1.45 crores on petitioner remitting the said amount in two instalments i.e. Rs.75 lakhs on or before 31.10.2006 and the balance on or before 31.12.2006. The petitioner did not make any payment and therefore, the OTS benefit granted by the Bank stands forfeited. The petitioner's case is that the Bank communicated the OTS benefit only on 18.12.2006. However, counsel for the Bank produced acknowledged copy of communication given to the petitioner on 13.10.2006. Therefore, the petitioner's claim that he was not informed about the OTS benefit granted is incorrect. However, since counsel on behalf of the petitioner gave undertaking in court that petitioner will deposit rupees fifty lakhs on or before 31.1.2007, I feel one more opportunity can be

granted to the petitioner on conditions. Accordingly W.P. is disposed of directing the Bank to withhold sale of property till 31.1.2007 on condition that petitioner will remit Rs.50 lakhs on or before 31.1.2007. If petitioner does not make payment, there will be direction to the petitioner to vacate from the premises on 1.2.2007 and hand over possession to the Bank, failing which the Bank can move this court for initiating contempt against the petitioner besides taking over possession. If petitioner remits Rs.50 lakhs, then petitioner is given time till 28.2.2007 to make payment of balance OTS amount with agreed rate of interest for the belated payment of OTS amount from the due dates on which OTS amount was payable till date of payment. In the event of default in payment of balance amount also, petitioner will hand over possession as stated above for the Bank to proceed for sale. I make it clear that if violation is committed, OTS benefit modified as above will stand forfeited. In view of the above order, there will be direction to the petitioner to withdraw all complaints filed against the Bank pertaining to sale, whether it be before the CDRF or before the RBI.

C.N.RAMACHANDRAN NAIR
Judge

pms